



Department of Justice

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JUSTICE DEPARTMENT SETTLES ANTITRUST CASE WITH MUSHROOM FARMER COOPERATIVE

Mushroom Growers Agree to End "Supply Control" Campaign

WASHINGTON, D.C. -- The Department of Justice today announced a settlement with the Eastern Mushroom Marketing Cooperative (EMMC), the nation's largest mushroom farmer cooperative, requiring EMMC to stop buying mushroom farms only to shut them down, and to make farms it had previously shut down available to competing farmers.

The Department filed a lawsuit today in the U.S. District Court for the Eastern District of Pennsylvania, challenging EMMC's Supply Control campaign as an agreement in restraint of trade in violation of Section 1 of the Sherman Act. At the same time, the Department filed a proposed consent decree that, if approved by the court, would resolve the lawsuit and the Department's competitive concerns.

According to the complaint, the EMMC, which controls approximately 90 percent of the common table mushrooms grown in the eastern United States, launched a campaign in May 2001 to prevent nonmember farmers from buying or leasing certain of the few available mushroom farms. EMMC's members contributed more than \$6 million to purchase mushroom farms, or lease options on them, only for the purpose of placing deed restrictions that bar mushroom farming on the land, usually forever.

The EMMC is organized under the Capper-Volstead Act, which gives farmers limited antitrust immunity to act together voluntarily in collectively processing, preparing for market,

handling, and marketing their products. The complaint alleges that the immunity of the Capper-Volstead Act does not apply to the EMMC's Supply Control campaign. According to the complaint, the Capper-Volstead Act provides no immunity for members of a cooperative to conspire to prevent independent, nonmember farmers from competing with the cooperative or its members.

The EMMC, with 15 members representing the largest U.S. mushroom producers, controls more than 500 million pounds of mushrooms per year with a value in excess of \$400 million.

As required by the Tunney Act, the proposed final judgment will be published in *The Federal Register*, along with the Department's competitive impact statement. Any person may submit written comments concerning the proposed final judgment during a 60-day comment period to Roger W. Fones, Chief, Transportation, Energy & Agriculture Section, U.S. Department of Justice, Antitrust Division, 325 7th Street N.W., Suite 500, Washington, D.C. 20530. At the conclusion of the 60-day comment period, the U.S. District Court for the Eastern District of Pennsylvania may enter the Final Judgment upon finding that it serves the public interest.

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